



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MED-TRANS CORPORATION
C/O MISTY STINER
PO BOX 708
WEST PLAINS MO 65775

Respondent Name

INSURANCE CO OF THE STATE OF PA

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-13-2887-01

MFDR Date Received

June 26, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Air ambulance reimbursement falls under federal aviation law according to The United States Code Title 49, 41713. The Airline Deregulation Act (ADA) of 1968 states that individual states cannot regulate the prices, routes or services of the air ambulance industry. Because of this preemption of authority by federal law air ambulance cannot be subjected to state workers compensation allowable and are to be reimbursed at 100% of the providers' usual charges. We request this claim to be reprocessed and paid at the full billed amount."

Amount in Dispute: \$16,189.40

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Contrary to Requestor's vague allegations, Respondent is unaware of any ruling court that has determined that the ADA preempts a State-based claim against an insurance carrier for workers' compensation medical benefit fee reimbursement by an air ambulance carrier and that the air carrier must be reimbursed at its full charges, unregulated by either competitive markets or administrative rule. The federal courts, Congress and federal agencies have judiciously avoided entanglement in the 50 states' workers' compensation systems. The McCarran-Ferguson Act is the prime example of that. The governance of state-based workers' compensation claims are properly within the State's authority."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 24, 2012	A0431 and A0436	\$16,189.40	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. Federal Preemption of Medical Fee Dispute Resolution under 28 Texas Administrative Code §133.307 Chapter 133 — General Medical Provisions — Subchapter D. Dispute and Audit of Bills by Insurance Carriers.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 885 – Review of this code has resulted in an adjusted reimbursement of \$1,388.10
- 900 – Review of this code has resulted in an adjusted reimbursement of \$4,852.50
- 983-001 – Upon further review-additional payment is warranted
- 147 – Provider contracted/negotiated rate expired or not on file
- W1 – Workers' compensation jurisdictional fee schedule adjustment. Note: If adjustment is at the Claim Level, the payer must send and the provider should refer to the 835 Class of Contract Code Identification Segment (Loop 2100 Other Claim Related Information)

Issue

1. Does the Federal Aviation Act, in particular the Airline Deregulation Act of 1978 section 41713 of Title 49 U.S.C.A., preempt the state statutes concerning timely filing?
2. Did the requestor waive the right to medical fee dispute resolution?

Findings

1. The division issued a memorandum dated March 28, 2013 stating: "Note that Congress adopted the Airline Deregulation Act of 1978 (the "ADA"), which prohibits states from adopting or enforcing regulations which relate to a price, route, or service of air carriers as defined by the ADA. See 49 USC §40102(a) (2). Specifically, 49 U.S.C. §41713(b) states that "[e]xcept as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart."
The division finds that the one year timely filing deadline addressed in 28 Texas Administrative Code §133.307 (c) (1) is not preempted. As a result, the division will review the dispute pursuant to 28 Texas Administrative Code §133.307 (c) (1).
2. 28 Texas Administrative Code §133.307(c) (1) states: "Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The date of the services in dispute is June 24, 2012. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on June 26, 2013. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution.

Conclusion

The Division finds that the requestor has waived the right to medical fee dispute resolution for the services in dispute. For that reason, the merits of the issues raised by both parties to this dispute have not been addressed.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	October 31, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).